

**HON'BLE THE CHIEF JUSTICE SHRI G.S. SINGHVI
AND
HON'BLE SHRI JUSTICE C.V. NAGARJUNA REDDY**

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Writ Petition No. 19813 of 2007

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Between:

G. Venu Gopal

... Petitioner

And

The Principal Secretary to Panchayat Raj &
Rural Development, Hyderabad & others

... Respondents

:: O R D E R ::

Counsel for the petitioner : Shri G. Venu Gopal,
Party-in-person

September 18, 2007

Per G.S. SINGHVI, CJ

The petitioner, who claims to have been selected by the Andhra Pradesh Public Service Commission (for short, 'the Commission') in 1990-91 for appointment as Assistant Executive Engineer, filed an application in April, 2006 under Section 19 of the Administrative Tribunals Act, 1985 (for short, 'the Act') for grant of a declaration that the appointments made by respondent Nos.2 and 3 are illegal, arbitrary, discriminatory and violative of Articles 14 and 16 of the Constitution and also for issue of a mandamus to the respondents to appoint him as Assistant Executive Engineer in Panchayat Raj Department against the vacancies which arose during 1990-95, but could not persuade the Andhra Pradesh Administrative Tribunal (for short, 'the Tribunal') to entertain his prayer. This is the reason why he has invoked jurisdiction

of this Court under Article 226 of the Constitution of India and prayed for quashing order dated 25.6.2007 passed by the Tribunal in O.A.No.2234 of 2006 and also for issue of mandamus for his own appointment as Assistant Executive Engineer.

We have heard the petitioner Shri G. Venugopal, who appeared in person, and scrutinised the records. In our opinion, the writ petition is liable to be dismissed summarily because,

- a) the petitioner has not produced any evidence before this Court to show that pursuant to recruitment notification No.4/90 issued by the Commission, he was selected for appointment as Assistant Executive Engineer. Therefore, a writ of mandamus cannot be issued to the respondents to appoint him in Panchayat Raj Department against one of the vacancies, which became available between 1990 and 1995. It is settled law that recommendations made by the Public Service Commission and other similar recruiting agencies/authorities do not create an indefeasible right in favour of the recommendee and the Court cannot issue a mandatory direction for his appointment unless it is satisfied that the non-appointment of the recommended candidate is wholly arbitrary, capricious and violative of Articles 14 and 16 of the Constitution – **State of Haryana v. Subash Chander Marwaha**^[1], **Jatinder Kaur v. State of Punjab**^[2], **Shankarsan Dash v. Union of India**^[3], **Food Corpn. of India v. Bhanu Lodh**^[4], **Union of India v. Kalidas Batish**^[5], **State of U.P. v. Rajkumar Sharma**^[6], **State of U.P. v. Om Prakash**^[7].
- b) even if the petitioner had produced tangible evidence to show that he was selected by the Commission, the Tribunal's refusal to entertain his prayer for quashing the appointments made by

respondent Nos.2 and 3 and to issue a direction for his own appointment as Assistant Executive Engineer cannot be found fault with because the persons, who were likely to be affected, were not made party to the O.A. and the application filed in 2006 was barred by limitation. Section 21 of the Act, which prescribes the period of limitation for filing an application, reads as under:

21. Limitation.

(1) A Tribunal shall not admit an application,-

(a) in a case where a final order such as is mentioned in Cl. (a) of sub-section (2) of Section 20 has been made in connection with the grievance unless the application is made, within one year from the date on which such final order has been made;

(b) in a case where an appeal or representation such as is mentioned in Cl. (b) of sub-section (2) of Section 20 has been made and a period of six months had expired thereafter without such final order having been made, within one year from the date of expiry of the said period of six months.

(2) Notwithstanding anything contained in sub-section (1), where-

(a) the grievance in respect of which an application is made had arisen by reason of any order made at any time during the period of three years immediately preceding the date on which the jurisdiction, powers and authority of the Tribunal becomes exercisable under this Act in respect of the matter to which such order relates; and

(b) no proceedings for the redressal of such grievance had been commenced before the said date before any High Court, the application shall be entertained by the Tribunal if it is made within the period referred to in Cl. (a), or, as the case may be, Cl. (b), of sub-section (1) or within a period of six months from the said date, whichever period expires later.

(3) Notwithstanding anything contained in sub-section (1) or sub-section (2), an application may be admitted after the period of one year specified in Cl. (a) or Cl. (b) of sub-section (1) or, as the case may be, the period of six months specified in sub-section (2), if the applicant satisfies the Tribunal that he has sufficient cause for not making the application within such period.

The petitioner could have filed application within one year {Section 21 (1)} from the date of accrual of cause of action i.e. the date when persons allegedly placed below him in the merit list were appointed. However, he filed an application after almost 15 years of the preparation of the merit list. Therefore, the same was liable to be dismissed as barred by time. If there was sufficient cause for not filing application within one year, the petitioner could have filed an application under sub-section (3) of Section 21 for condonation of delay. However, no such application is shown to have been filed. Therefore, the Tribunal would have been justified in dismissing the application at the threshold. It is a different thing that the Tribunal did not properly scrutinize the application as per the requirement of Section 19 (3) and on that account the petitioner entertained a false hope that he may get some relief in the O.A.

Be that as it may, we are convinced that in this writ petition filed in 2007, the Court can neither quash the appointments made on the recommendations made by the Commission nor a mandamus can be issued for the petitioner's appointment as Assistant Executive Engineer in Panchayat Raj Department on the basis of the alleged recommendation made by the Commission in 1990-91.

In the result, the writ petition is dismissed.

As a sequel to dismissal of the writ petition, WPMP No.25538 of 2007 filed by the petitioner for interim relief is also dismissed.

G.S. SINGHVI, CJ

September 18, 2007

C.V. NAGARJUNA REDDY, J

svs

[\[1\]](#) AIR 1973 SC 2216

[\[2\]](#) (1985) 1 SCC 122

[\[3\]](#) (1991) 3 SCC 47

[\[4\]](#) (2005) 3 SCC 618

[\[5\]](#) (2006) 1 SCC 779

[\[6\]](#) (2006) 3 SCC 330

[\[7\]](#) (2006) 6 SCC 474